

SENATE, NO. 2416

[Senate, May 6, 2010 - New draft of Senate, No. 2342 reported from the committee on Health Care Financing.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT PROMOTING ROUTINE HIV SCREENING IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 **SECTION 1.** Chapter 111 of the General Laws is hereby amended by striking out

2 Section 70F and inserting in place thereof the following section:-

3 No health care facility, as defined in section 70E, physician, or health care provider shall
4 test any person for the presence of the HIV antibody or antigen without first verbally informing
5 the patient that the test is planned and that he or she has the right to decline the test.

6 No health care facility, as so defined, physician or health care provider shall (1) disclose
7 the results of an HIV test to any person other than the subject thereof without first obtaining the

subject's written informed consent, or (2) identify the subject of such test to any person without first obtaining the subject's written informed consent; provided that the notation in the patient's medical record of test results, the ordering of a test, or a patient's decision to decline a test shall not constitute a violation of this section.

No employer shall require an HIV test as a condition for employment.

Whoever violates the provision of this section shall be deemed to have violated section two of chapter 93A.

SECTION 2. Chapter 111 of the General Laws is hereby amended by inserting after section 70F, the following section:-

Section 70F 1/2. The board of registration in medicine, established pursuant to section 10 of Chapter 13, in collaboration with the commissioner of public health, shall promulgate regulations relative to the education and training of health care providers in the administration of HIV testing and post test counseling, including, but not limited to, continuing medical education requirements. For the purpose of this section, continuing medical education credits shall include only those earned through continuing medical education programs approved by the office of HIV/AIDS within the department of public health and accepted by the board. Nothing in this section shall affect the total hours of continuing medical education required by the board.

SECTION 3. Notwithstanding any general or special law to the contrary, the commissioner of public health shall convene a task force to study the promotion of widespread, routine, integrated HIV testing in medical settings and factors that contribute to the late entrance into care for persons living with HIV. The study shall include, but not be limited to, the identification of current best practices and recommendations for improving testing and treatment

access for both at-risk populations and populations that are disproportionately undiagnosed and the identification of best practices for linking people to care.

The task force shall be comprised of the following members: the commissioner of public health or a designee, who shall serve as chair; the director of the Bureau of Infectious Disease or a designee; the director of the Office of HIV/AIDS; the director of the HIV/AIDS Surveillance program or a designee; at least one member of the MDPH Statewide Consumer Advisory Board; at least one member of the Massachusetts HIV Prevention Planning Group ; the directors of three HIV and AIDS Community Based Organizations in Massachusetts or their designees; three Massachusetts-licensed physicians with research or clinical expertise in HIV; and at least one representative each from the; the Massachusetts Medical Society; the Massachusetts Nurses Association; the Massachusetts Hospital Association; the Massachusetts Council of Community Hospitals; and the Massachusetts League of Community Health Centers.

The commissioner shall convene the task force not later than 30 days after the passage of this act. The commissioner shall submit the task force's findings and legislative recommendations, if any, to the joint committee on public health and the joint committee on health care financing not later than 6 months following their first meeting.